

Addressing Racial & Ethnic Disparities at Pre-Sentencing - From Research to Policy

By CCJJ, June 2022



Why this topic matters

- Criminal justice involvement, particularly a prison sentence can carry **large implications** on the individual, their family and society.
- Generational impacts





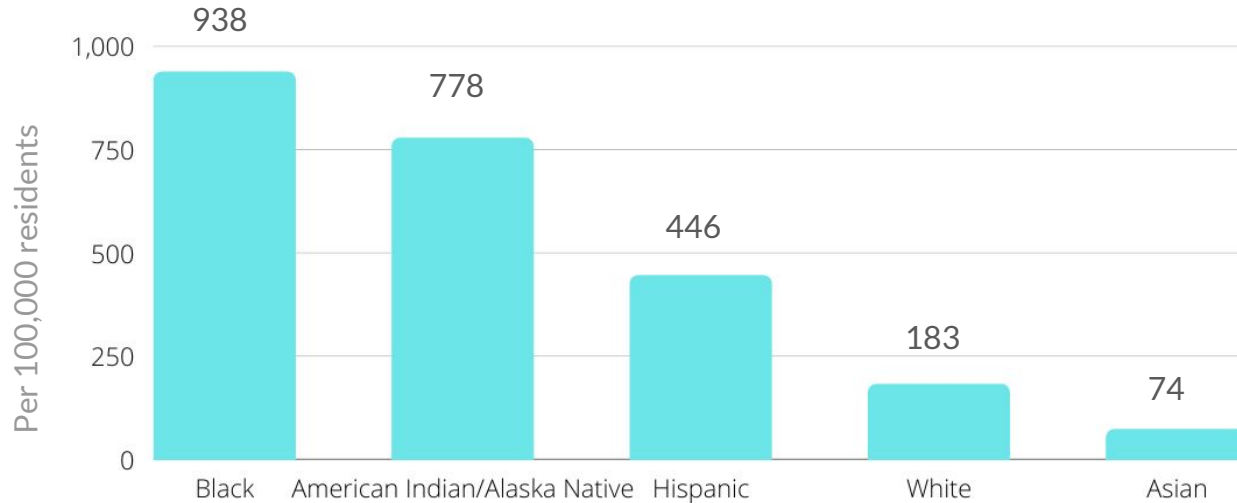
Racial and Ethnic minority overrepresentation in our justice system

- Many racial & ethnic minority groups are overrepresented in the justice system, and hence carry a disproportionate share of this burden



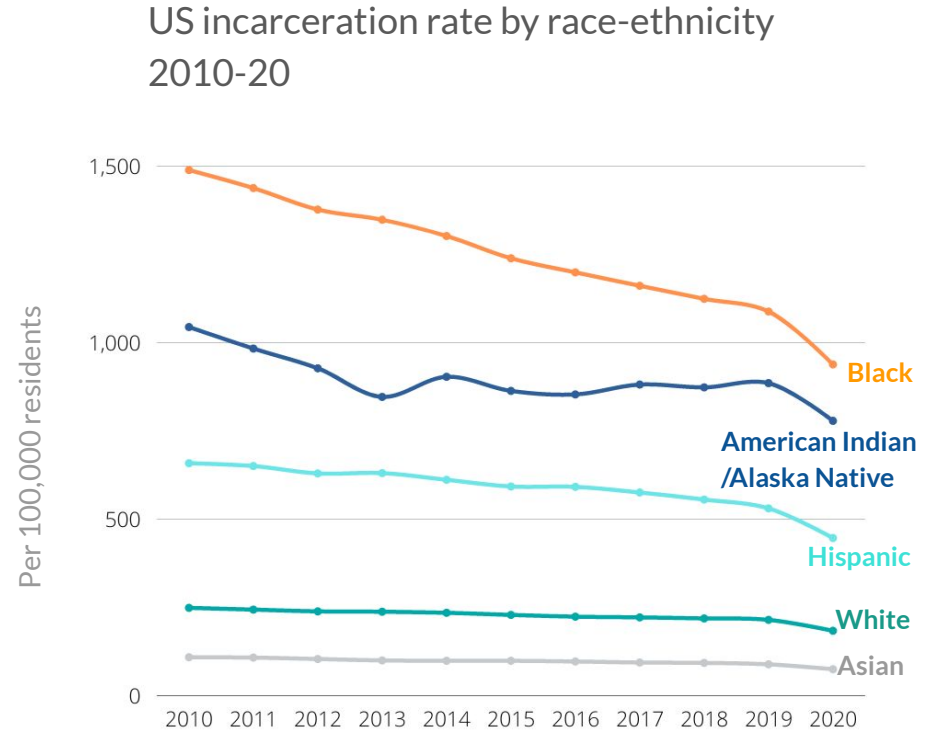


US incarceration rate by race-ethnicity in 2020



..And through time

Source: Bureau of Justice Statistics, 2021

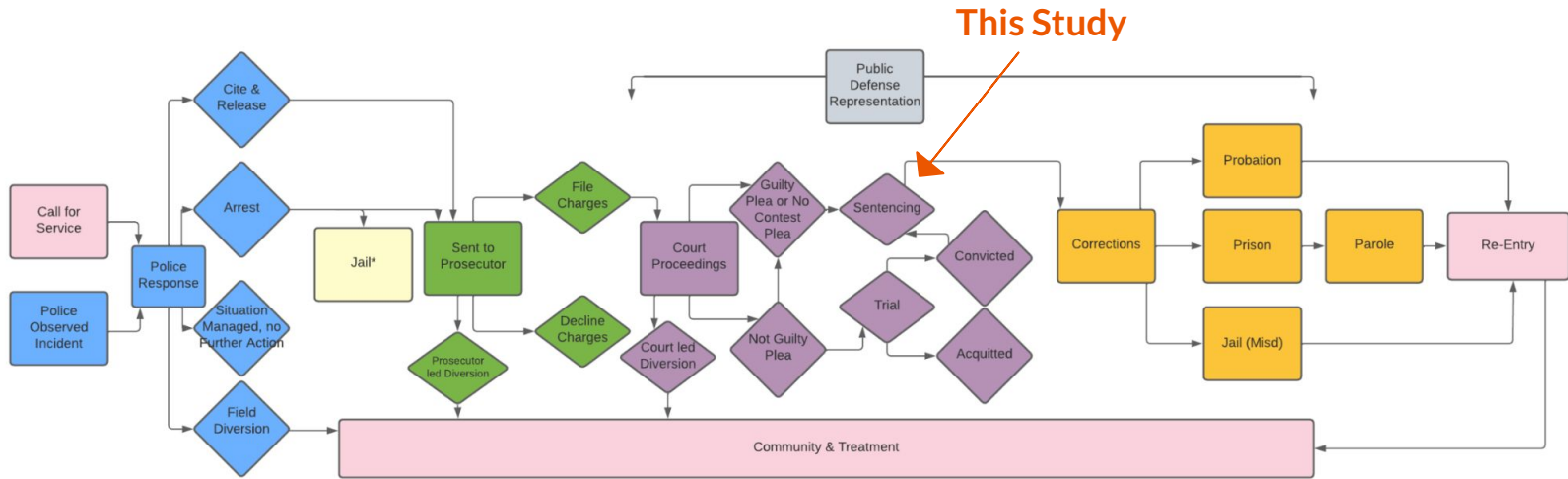




Research Focus

This study analyzes the relationship between race-ethnicity and the **severity** of the *sentence recommendation* found in the Presentence Investigation Report, an important document given to a Judge.

Criminal justice decision points



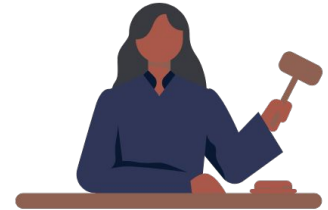
Source: Salt Lake County Mayor's Office of Criminal Justice Initiatives, 2022

What is the Presentence Investigation (PSI) Report?

The PSI report is written by a probation officer and contains a **sentence recommendation** that is given to a Judge.



Recommended sentence
(based on Sentencing Guidelines)



Judge makes **final** decision



The PSI Report Criteria

1. Criminal history score (categories I-V, where V is the most severe)
 - A score composed of items related to one's criminal past
2. Current crime category (e.g., a person offense of felony 2 degree)
3. Aggravating and Mitigating factors

The Sentencing Matrix

Well, one of many matrices!

	Crime Category						
	1st Degree Person	1st Degree Other	2nd Degree Person	3rd Degree Person	2nd Other Specific 3rds	2nd Poss 3rd Other	3rd Poss Class A**
	A	B	C	D	E	F	G
Criminal History	V	120 MOS	84 MOS	54 MOS	32 MOS	26 MOS	16 MOS
	IV	108 MOS	78 MOS	42 MOS	26 MOS	20 MOS	14 MOS
	III	96 MOS	72 MOS	30 MOS	20 MOS	16 MOS	12 MOS
	II	84 MOS	66 MOS	24 MOS	16 MOS	14 MOS	10 MOS
	I	72 MOS	60 MOS	18 MOS	14 MOS	12 MOS	8 MOS

As an example, an individual with a criminal history category IV (vertical axis) that committed a 2nd Degree Person offense (column C), is recommended a prison sentence (white shaded region). This excludes any aggravating and mitigating factors that can either enhance or reduce this recommendation.



Data & Methods

- **Unit of analysis:** ~10,000 PSI reports conducted in Utah (felony offenders only)
- **Variable of interest:** A prison recommendation vs. a more *lenient* recommendation (probation only or probation with jail time) by minority status
- **Control variables:** Criminal history category, offense type/severity and demographics
- **Statistical methods:** Use a set of acceptable statistical techniques for classification problems (e.g., logistic regression)
- **Model assumptions/performance:** Measure performance of the model(s)
 - Should be better than a coin-flip!



Sample characteristics



Unknown includes individuals that chose not to identify or missing information. White includes White-non-Hispanic. Other race includes Black, Native American, Pacific Islander, and Asian. Hispanic includes Hispanic-non-White.

- Race-Ethnicity Break-down

- White: 68%
- Hispanic: 13%
- Other race: 11%
- Unknown: 8%

- Criminal History & Offense Characteristics

- Criminal history (mean): 2.4
- Felony severity (mean): 1.2
- Property: 37%
- Other: 18%
- Person: 16%
- Alcohol & Drug: 17%
- Drug poss. only: 12%

- Demographics

- Age (mean): 35.3
- Male: 76%



Summary statistics

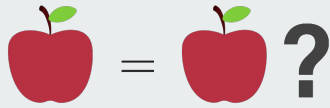
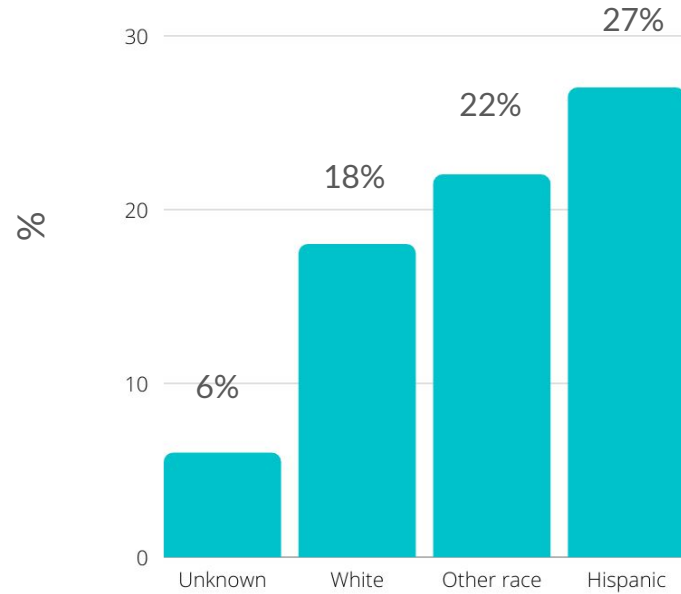


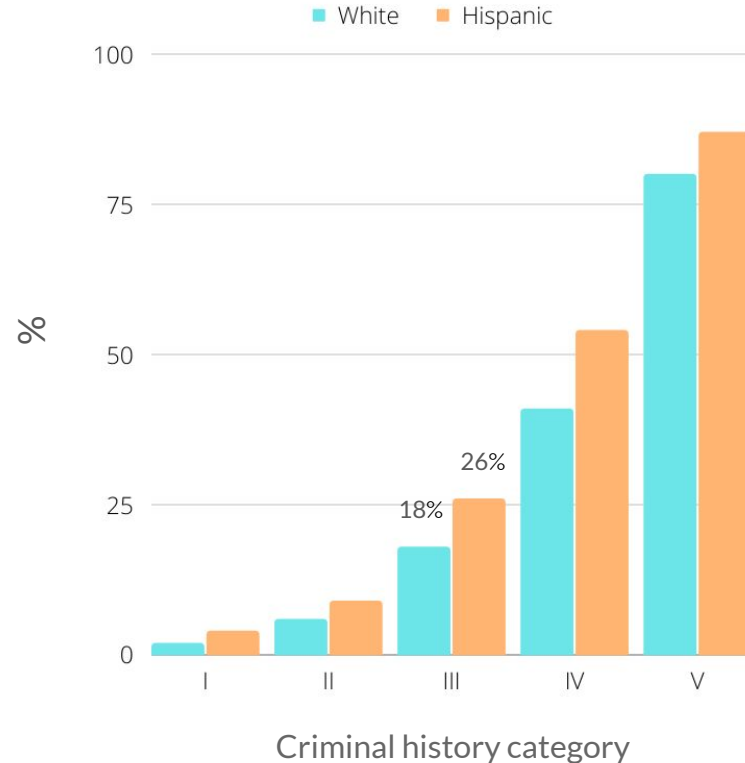
Figure 1. Percent recommended prison by group



Findings

While controlling for relevant factors, in comparison to Whites, Hispanics had a statistically increased likelihood of being recommended a prison sentence overall, and across all 5 criminal history categories and the most common offense categories.

Figure 2. Percent *expected* to be recommended a prison sentence by group and criminal history category





~ From Research to Policy ~

Policy Implications

1. Review aggravating and mitigating factors and specifically, their relationships to socio-economic status/an individual's financial resources
 - a. Increase standardization around the selection of these factors
2. Examine the inputs of the criminal history scoring algorithm
 - a. Some factors (e.g., counting prior person offenses) may be more strongly linked to certain racial and ethnic minority groups
3. Enhance opportunities for implicit and explicit racial and ethnic bias training



Thank you!

[Link to full study](#)

